

TRANSPORTATION SERVICE HUMAN RESOURCES POLICY

**SUBJECT: REASONABLE ACCOMMODATION FOR
INDIVIDUALS WITH DISABILITIES (ADA)**

**Electronic copy
Signed copy on file**

APPROVED: _____
Deputy Secretary, Department of Transportation

**Section: 6H
Issued: 11/12/97
Revision No.
Page 1 of 6
Effective: 11/12/97**

1. PURPOSE

- 1.1 It is the policy of MDOT that reasonable accommodations shall be made to facilitate the hiring and/or continued employment of qualified individuals with disabilities.

2. APPLICABILITY

- 2.1 To all qualified applicants and MDOT employees.

3. REFERENCES

- 3.1 Title I of the Americans with Disabilities Act (ADA) of 1990, 42 U.S.C. 12101, et seq. and 29 C.F.R. Part 1630.
- 3.2 Section 504 of the Rehabilitation Act of 1973 as amended, Title 34 C.F.R. Section 104.12
- 3.3 Executive Order 01.01.1983.18 Privacy and State Data System Security dated October 24, 1983.
- 3.4 Executive Order 01.01.1995.19 Code of Fair Employment Practices.
- 3.5 Article 49B of the Annotated Code Maryland.
- 3.6 Maryland Department of Transportation Policy 140.1. Access Under the Americans With Disabilities Act (ADA) (1990).

4. DEFINITIONS

- 4.1 Disability – means, with respect to an individual:

_____ Indicates insertion since last revision

TRANSPORTATION SERVICE HUMAN RESOURCES POLICY

**SUBJECT: REASONABLE ACCOMODATION FOR
INDIVIDUALS WITH DISABILITIES (ADA)**

SECTION: 6H

Issued: 11/12/97

Revision No.

Effective: 11/12/97

Page 2 of 6

- 4.1.1 A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- 4.1.2 A record of such impairment, or
- 4.1.3 Being regarded as having such an impairment.
- 4.2 Physical or Mental Impairment – means:
 - 4.2.1 Any physiological disorder or condition, cosmetic disfigurement or anatomical loss affecting one or more of the following body systems: neurological, musculoskeletal, special sense organs, respiratory (including speech organs), cardiovascular, reproductive, digestive, genitourinary, hemic and lymphatic, skin and endocrine; or
 - 4.2.2 Any mental psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.
- 4.3 Major Life Activities – means:
 - 4.3.1 Functions such as caring for one-self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning and working.
- 4.4 Substantially Limits
 - 4.4.1 The term “substantially limits” means:
 - (1) Unable to perform a major life activity that the average person in the general population can perform; or
 - (2) Significantly restricted as to the condition, manner or duration under which an individual can perform a particular major life activity as compared to the condition, manner, or duration under

TRANSPORTATION SERVICE HUMAN RESOURCES POLICY

**SUBJECT: REASONABLE ACCOMODATION FOR
INDIVIDUALS WITH DISABILITIES (ADA)**

SECTION: 6H

Issued: 11/12/97

Revision No.

Effective: 11/12/97

Page 3 of 6

4.4.2 The following factors should be considered in determining whether an individual is substantially limited in a major life activity:

- (1) The nature and severity of the impairment;
- (2) The duration or expected duration of the impairment; and
- (3) The permanent or long term impact, or the expected permanent or long term impact of or resulting from the impairment.

4.4.3 With respect to the major life activity of “working”:

- (1) The term “substantially limits” means significantly restricted in the ability to perform either a class of jobs or a broad range of jobs in various classes as compared to the average person having comparable training, skills and abilities. The inability to perform a single particular job does not constitute a substantial limitation in the major life activity of “working”.
- (2) In addition to the factors listed in paragraph (4.4.2) of this section, the following factors may be considered in determining whether an individual is substantially limited in the major life activity of “working”:
 - (i) The geographical area to which the individual has reasonable access;
 - (ii) The job from which the individual has been disqualified because of an impairment, and the number and types of jobs utilizing similar training, knowledge, skills or abilities, within that geographical area, from which the individual is also disqualified because of the impairment (class of jobs); and/or
 - (iii) The job from which the individual has been disqualified because of an impairment, and the number and types of other jobs not utilizing similar training, knowledge, skills or abilities, within that geographical area, from which the individual is also disqualified because of the impairment (broad range of jobs in various classes).

Indicates insertion since last revision

TRANSPORTATION SERVICE HUMAN RESOURCES POLICY

**SUBJECT: REASONABLE ACCOMODATION FOR
INDIVIDUALS WITH DISABILITIES (ADA)**

SECTION: 6H

Issued: 11/12/97

Revision No.

Effective: 11/12/97

Page 4 of 6

4.4.4 Has a record of such an impairment – means:

- (1) Has a history of, or has been misclassified as having a mental or physical impairment that substantially limits one or more major life activities.

4.4.5 Is regarded as having such an impairment – means:

- (1) Has a physical or mental impairment that does not substantially limit major life activities but is treated as constituting such limitations;
- (2) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or
- (3) Has none of the impairments defined in paragraph 4.4.1 or 4.4.2 of this section but is treated as having a substantially limiting impairment.

4.4.6 Qualified individual with a disability – means:

- (1) An individual with a disability who satisfies the requisite skill, experience, education and other job-related requirements of the employment position such individual holds or desires, and who, with or without reasonable accommodation, can perform the essential functions of such position.

4.4.7 Essential Functions

- (1) In general the term “essential functions” means: the fundamental job duties of the employment position the individual with a disability holds or desires. The term “essential functions” does not include the marginal functions of the position.

TRANSPORTATION SERVICE HUMAN RESOURCES POLICY

**SUBJECT: REASONABLE ACCOMMODATION FOR
INDIVIDUALS WITH DISABILITIES (ADA)**

SECTION: 6H

Issued: 11/12/97

Revision No.

Effective: 11/12/97

Page 5 of 6

4.4.8 Reasonable Accommodation – means:

- (1) Modifications or adjustments to a job application process that enable a qualified applicant with a disability to be considered for the position such qualified applicant desires; or
- (2) Modifications, adjustments or changes to a job or work environment or to the manner or circumstances under which the position held or desired is customarily performed, that enable a qualified individual with a disability to perform the essential functions of that position; or
- (3) Modifications or adjustments that enable an employee with a disability to enjoy equal benefits and privileges of employment as are enjoyed by other similarly situated employees.

4.4.9 Undue Hardship

- (1) In general “undue hardship” means, with respect to the provision of an accommodation, significant difficulty or expense incurred by MDOT when considered in light of the factors set forth in paragraph 4.4.9 (2) of this section.
- (2) Factors to be considered. In determining whether an accommodation would impose an undue hardship on MDOT factors to be considered include:
 - (i) The nature and net cost of the accommodation needed under this part, taking into consideration the availability of tax credits and deductions, and/or outside funding;
 - (ii) The overall financial resources of the facility or facilities involved in the provision of the reasonable accommodation, the number of persons employed at such facility and the effect on expenses and resources;

TRANSPORTATION SERVICE HUMAN RESOURCES POLICY

**SUBJECT: REASONABLE ACCOMMODATION FOR
INDIVIDUALS WITH DISABILITIES (ADA)**

SECTION: 6H

Issued: 11/12/97

Revision No.

Effective: 11/12/97

Page 6 of 6

- (iii) The overall financial resources of MDOT, the overall size of the business of MDOT, with respect to the number of its employees, and the number, type and location of its facilities;
- (iv) The type of operation or operations of MDOT including the composition, structure and functions of the work force of MDOT, and the geographic separateness and administrative or fiscal relationship of the facility or facilities in question to MDOT; and
- (v) The impact of the accommodation upon the operation of the facility, including the impact on the ability of other employees to perform their duties and the impact on the facility's ability to conduct business.

5. GENERAL

- 5.1 The MDOT will not deny employment opportunities to an otherwise qualified individual with a disability based on the need to make reasonable accommodation to facilitate or continue employment of a qualified individual with a disability, unless the accommodation would impose an undue hardship on the Department.
- 5.2 Upon request MDOT shall make reasonable accommodation for the known physical and/or mental impairments of an otherwise qualified individual with a disability, unless the MDOT can demonstrate that the accommodation would impose an undue hardship on the Department.
- 5.3 The immediate supervisor and those in the supervisory line will be informed regarding the necessary restrictions on the work or duties of an employee and any reasonable accommodations needed to perform the essential job functions. First aid and safety personnel may also be informed, when appropriate, if the disability might require emergency treatment or if any specific procedures are needed in case of fire or other emergency evacuation.
- 5.4 Pertinent medical information on individuals with disabilities shall be maintained in separate medical files and kept confidential.

==== Indicates insertion since last revision